

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL A. BURNHART,)	CASE NO. C06-0816-RSL-MAT
)	
Plaintiff,)	
)	
v.)	ORDER ADOPTING AMENDED
)	REPORT AND RECOMMENDATION
COMMANDER REED HOLTGEERTS,)	
)	
Defendant.)	
_____)	

The Court, having reviewed the Amended Report and Recommendation of the Honorable Mary Alice Theiler, United States Magistrate Judge, any objections thereto, and the balance of the record, does hereby ORDER:

- (1) The Court adopts the Amended Report and Recommendation;
- (2) Plaintiff is GRANTED leave to amend his complaint a second time, and the second amended complaint that he has submitted (Dkt. #17) shall be filed;
- (3) The constitutional claims and state law claims presented in the second amended complaint are DISMISSED without prejudice. The sole remaining claim which may proceed is plaintiff's claim under the federal Wiretap Act, 18 U.S.C. § 2510

01 *et seq;*

02 (4) The Clerk shall STRIKE plaintiff's pending motion for an extension of time (Dkt.
03 #15) and the previous Report and Recommendation (Dkt. #14) as moot; and

04 (5) Pursuant to Rule 72 of the Federal Rules of Civil Procedure, 28 U.S.C. § 636, and
05 Local Rule MJR 9, this matter is referred to Judge Theiler for pretrial matters,
06 including service of the second amended complaint. The Clerk shall forward
07 copies of this Order to plaintiff and to Judge Theiler.

08 DATED this 23rd day of October, 2006.

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11 Robert S. Lasnik
12 United States District Judge
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